

11/21/01
1130 U.S. PTO

Patent
Attorney's Docket No. 032405-065

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

**REQUEST FOR FILING CONTINUATION/DIVISIONAL
APPLICATION UNDER 37 C.F.R. § 1.53(b)**

11000 U.S. PTO
09/989055
11/21/01

Box PATENT APPLICATION
Assistant Commissioner for Patents
Washington, D.C. 20231

Sir:

This is a request for filing a ☒ continuation ☐ divisional application under 37 C.F.R. § 1.53(b) of pending Application No. 09/440,263 filed on November 15, 1999, for Trocar for Use in Deploying an Anastomosis Device and Method of Performing Anastomosis, by the following named inventor(s):

(a)	Full Name	<u>Jaime Vargas</u>
(b)	Full Name	<u>Brendan M. Donohoe</u>
(c)	Full Name	<u>Scott C. Anderson</u>
(d)	Full Name	<u>Theodore Bender</u>
(e)	Full Name	<u>Stephen A. Yencho</u>
(f)	Full Name	<u>Bernard Hausen</u>
(g)	Full Name	<u>Michael Hendricksen</u>

☐ Applicant(s) hereby requests that the above-captioned application **NOT BE PUBLISHED** under 35 U.S.C. § 122(b) and 37 C.F.R. § 1.211. The undersigned hereby certifies that the invention disclosed in this application has not and will not be the subject of an application filed in another country, or under a multilateral international agreement, that requires publication at eighteen months after filing.

☒ The entire disclosure of the prior application from which a copy of the oath or declaration is supplied herewith is considered as being part of the disclosure of the accompanying application and is hereby incorporated by reference therein.

☐ This application is being filed by less than all the inventors named in the prior application. In accordance with 37 C.F.R. 1.63(d)(2), the Commissioner is requested to delete the name(s) of the following person or persons who are not inventors of the invention being claimed in this application.

(a) Full Name _____

☐ This application is being filed by more than all the inventors named in the prior application. In accordance with 37 C.F.R. 1.63(d)(5), a new oath or declaration is enclosed, and the Commissioner is requested to add the name(s) of the following person or persons who are inventors of the invention being claimed in this application.

(a) Full Name _____



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- [X] Applicant(s) suggests Figure 38C for inclusion on the front page of the patent application publication and/or patent.
1. [X] Enclosed is a copy of the prior Application No. 09/440,263 as originally filed on November 15, 1999, including copies of the specification, claims, drawings and the executed oath or declaration as filed.
2. [] Enclosed is a revised prior application and a copy of the prior executed oath or declaration as filed. No new matter has been added to the revised application.
3. [X] Small entity status is hereby claimed.
4. [X] The filing fee is calculated below [X] and in accordance with the enclosed preliminary amendment:

C L A I M S					
	NO. OF CLAIMS		EXTRA CLAIMS	RATE	FEE
Basic Application Fee					\$740.00 (101)
Total Claims	27	MINUS 20 =	7	× \$18.00 (103) =	126
Independent Claims	5	MINUS 3 =	2	× \$84.00 (102) =	168
If multiple dependent claims are presented, add \$280.00 (104)					
Total Application Fee					1034
If small entity status is claimed, subtract 50% of Total Application Fee					517
Add Assignment Recording Fee of \$_ if Assignment document is enclosed					
TOTAL APPLICATION FEE DUE					517.00

5. [] Charge \$ _____ to Deposit Account No. 02-4800 for the fee due.
6. [X] A check in the amount of \$ 517.00 is enclosed for the fee due.
7. [X] The Commissioner is hereby authorized to charge any appropriate fees under 37 C.F.R. §§ 1.16, 1.17 and 1.21 that may be required by this paper, and to credit any overpayment, to Deposit Account No. 02-4800. This paper is submitted in duplicate.
8. [X] Cancel in this application original claims 1-33 of the prior application before calculating the filing fee. (At least one original independent claim must be retained for filing purposes.)
9. [X] New drawings are enclosed.
10. [] Priority of Application No. _ filed on _ in _ (country) is claimed under 35 U.S.C. § 119.



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- ☐ The certified copy of the priority application
☐ is enclosed.
☐ was filed on in prior Application No. , filed on , and acknowledged by
the Examiner on in Paper No. .
☐ has not yet been filed.

11. ☒ Please amend the specification by inserting before the first line the sentence:

- ☒ --This application is a ☒ continuation ☐ divisional of Application No.
09/440,263, filed on November 15, 1999 which is a continuation-in-part of
Application No. 09/314,278, filed on May 18, 1999 .--.
- ☐ --This application is a ☐ continuation ☐ divisional of U.S. Application No. ,
filed on , which was a national stage filing under 35 U.S.C. § 371 of
International Application No. filed on , which International Application
☐ was ☐ was not published by the International Bureau in English on .--.
- ☐ --This application is a ☐ continuation ☐ divisional of U.S. Application No. ,
filed on , which was a continuation of International Application No. , filed on
, which International Application ☐ was ☐ was not published by the
International Bureau in English on .--.

12. ☒ A preliminary amendment is enclosed.

13. ☒ An Information Disclosure Statement is enclosed.

14. ☐ A General Authorization for Payment of Fees and Petitions for Extensions of Time is
enclosed.

15. ☒ The power of attorney in the prior application is to James W. Peterson, Reg. No.
26,057 and Peter K. Skiff, Reg. No. 31,917.

- a. ☒ The power appears in the original papers in the prior application.
b. ☐ Since the power does not appear in the original papers, a copy of the power
in the prior application is enclosed.
c. ☐ Recognize as Associate Attorney .
d. ☒ Address all future communications to: (May only be completed by
applicant, or attorney or agent of record.)

James W. Peterson
BURNS, DOANE, SWECKER & MATHIS, L.L.P.
P.O. Box 1404
Alexandria, Virginia 22313-1404

Date: November 19, 2001

By: Cindy A. Lynch

Cindy A. Lynch
Registration No. 38,699

ADDRESS OF SIGNATOR:

BURNS, DOANE, SWECKER & MATHIS, L.L.P.
P.O. Box 1404
Alexandria, Virginia 22313-1404
(650) 622-2300

- ☐ inventor(s)
☐ assignee of complete interest
☐ attorney or agent of record
☒ filed under 37 C.F.R. § 1.34(a)



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